

December 16, 2011

The Honorable Harry Reid  
522 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20510

The Honorable Mitch McConnell  
317 Russell Senate Office Building  
United States Senate  
Washington, D.C. 20510

The Honorable John Boehner  
1011 Longworth House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
235 Cannon House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Jay Rockefeller  
531 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20510

The Honorable Kay Bailey Hutchison  
284 Russell Senate Office Building  
United States Senate  
Washington, D.C. 20510

The Honorable Fred Upton  
2183 Rayburn House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Henry Waxman  
2204 Rayburn House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

Senators and Representatives:

The undersigned companies, trade associations, and public interest groups write to express our continued support for the quick passage of spectrum reform legislation that will ensure that commercial users, public safety, and federal users all have access to wireless capacity to meet our ever growing needs. However, at present, we remain concerned that certain provisions contained in the House-passed Jumpstarting Opportunity With Broadband Spectrum Act (JOBS Act) could impose harmful constraints on the ability of the FCC to make appropriate spectrum allocation decisions and to design a successful auction of licensed frequencies that will support vibrant competition, technological innovation, and rural broadband deployment. We urge Senate and House negotiators to modify these provisions to preserve the FCC's existing authority to respond to changes in this continually evolving and dynamic market.

As demand for licensed and unlicensed services continues to grow and evolve, we believe that sound communications policy counsels an approach that avoids anticipatory action, and instead, to the maximum extent possible, preserves agency flexibility to assess then-current demands for both licensed and unlicensed spectrum.

In addition, as numerous economists have stressed, there is a need to preserve traditional FCC authority to design the auctions authorized by the bill regardless of whether the goal is to maximize revenue or further the goals of competition and innovation. Michelle Connolly, the FCC's Chief Economist in 2006-2007 and 2008-2009, testified last June before the House

Subcommittee on Communications and Technology that: “this [broadcast incentive auction] will be a far more complex auction than held in the past and will require a great deal of research and planning. . . . I have confidence in the ability of the FCC staff to again undertake such a task. However, given that the FCC itself does not yet know exactly how to optimally execute the auction, it will need flexibility in designing the auction.”

We therefore strongly urge Congress to heed the advice of independent spectrum experts and the concerns of the Federal Communications Commission by preserving agency flexibility to consider allocations for licensed and unlicensed use and to design an auction that will encourage competition, promote job growth through innovation, and raise much needed revenue. Under its existing authority to find the right balance between licensed and unlicensed spectrum access, the FCC has successfully auctioned commercial licenses to use spectrum since the mid-1990s, raising over \$50 billion for the U.S. Treasury and driving growth of the wireless industry to over \$150 billion in annual revenue, with mobile phone penetration now at over 90% of the population. At the same time, the FCC’s judicious use of flexible authority has simultaneously created an unlicensed industry that generates an estimated \$50 billion annually for the American economy, and has made America the world-leader in development of wireless technology from LTE to Super WiFi.

To conclude, we applaud both the Senate and House Committees, from both parties, for their tireless work to develop bipartisan legislation that will promote public safety, create jobs, enhance competition, and foster even greater innovation. We remain fully committed to working with Congress to pass legislation that allows us to fully unlock and bring to reality the power of the wireless revolution.

Sincerely,



